



**GENERAL COUNSEL**

**OCA FILE**

*Leeg*  
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**Memo For**

Legislative Officer

RE: Flag Officer Ceiling Exemption for DIA  
Director and Deputy Director and NSA  
Director

Attached are points in support of the legis-  
lation to exempt (DIA and NSA) Director and  
(DIA) Deputy Director flag billets from ser-  
vice and departmental ceilings. This, in  
tangible form, is the essence of our pre-  
vious conversations.

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Enclosure a/s

General Counsel

## Exemption of DIA Director and Deputy Director and NSA Director Positions from Flag Officer Ceilings

**LEGISLATIVE PROPOSAL:** It is proposed that a new Section 527 be added to chapter 32 of title 10, United States Code, which deals with officer strength and distribution in grade. The new section would exempt the Director and Deputy Director of DIA and the Director of NSA from general and flag officer grade ceilings imposed on a service or departmental basis. It is proposed that the new section read as follows:

"527. Exception to General and Flag Officer Grade Ceiling  
Commissioned officers serving as Director or Deputy Director of the Defense Intelligence Agency, or Director of the National Security Agency, during the period in that appointment, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the Armed Force of which he is a member."

**BACKGROUND:** The Armed Forces incur a heavy cost by appointing their best intelligence officers to senior national foreign intelligence billets in DIA and NSA. While the Services consider it a distinct honor to fill such prestigious positions, these billets count against their respective service high ranking officer ceilings. This situation creates critical gaps in authorized flag and general officer intelligence billets at the CINC and Service headquarters level.

**DISCUSSION:** The Navy experience illustrates the problems encountered by all the Services. The U.S. Navy has only three flag level intelligence specialist billets. Thus, when the U.S. Navy appoints a flag officer to fill the position of Deputy Director of DIA as it recently did, or appoints a flag officer to the Directorship of NSA, which it now holds, it does so at the expense of a warfighting CINC or its own Service headquarters flag level billet. The Joint Intelligence (J-2) billet at USCINCLANT, a flag billet, is filled with a captain because the Navy filled the director of NSA billet with a Vice Admiral. The commander of Naval Intelligence Command, a flag billet, can not be filled by a flag officer again because the Navy is filling national foreign intelligence positions with one of only three flag level intelligence specialists. This not only hurts the Command over time (this position has not been filled with a flag level officer since 1982), but this unfortunate situation has a negative impact on the mission when the captain filling a flag level "Command" position often can neither sign as a flag officer nor attend "flag level only" functions. Additionally, while Navy is providing flag level directorship to NSA and Deputy DIA, its principal intelligence command cannot be represented at high level national foreign intelligence decision meetings with comparable flag officers.

The proposal to exempt military officers appointed to national foreign intelligence billets from general or flag officer caps is

not unprecedented. Sections 403 and 403-1 of title 50, United States Code, currently exempt military officers appointed as DCI, DDCI or Director of the IC Staff, from general officer and flag officer caps imposed on a service or departmental basis.